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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,066	03/05/2002	Gunther O. Schenck	F0217	6716

7590 09/27/2002

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EXAMINER

TOOMER, CEPHIA D

ART UNIT PAPER NUMBER

1714

DATE MAILED: 09/27/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/091,066

Applicant(s)

SCHENCK, GUNTHER O.

Examiner

Cephia D. Toomer

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

2. The disclosure is objected to because of the following informalities: at page 3, "mio" and "t pa" should be defined.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-7 are rejected because it is not clear what constitutes "a predetermined substantial fraction." Also, the term "predetermined" is indefinite. It is not clear for time period is the charcoal stored.

Claim 1 is also rejected because the language beginning at "whereby said corresponding amount of CO₂ ... does not further limit the method and is an obvious statement, since it stands to reason that if less charcoal is converted into energy then less CO₂ is released.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 1 rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable over Applicant's admitted prior art.

At page 3, line 30 through page 4, line 5, Applicant describes wood products that are burned and those that are stored. Applicant discloses that the incinerated wood products increase the level of CO₂ in the atmosphere and that the stored portion of the wood product does not. The skilled artisan having this information before him/her recognizes that wood products that are incinerated encompasses the claimed charcoal.

It would have been obvious to one of ordinary skill in the art to have converted the wood products to charcoal because charcoal is one of only a few products that may be produced from wood for the distinct purpose of incinerating.

7. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pilipski (US 4,318,710).

Pilipski teaches a woody product that is converted into charcoal (see abstract; col. 2, lines 9-19). Pilipski teaches that the charcoal may be packed or briquetted for transport (see col. 3, lines 17-22). Pilipski exemplified burning some of the charcoal (see col. 3, line 64 bridging col. 4, lines 1-22).

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Pilipski fails to teach that a portion of the charcoal is stored for an extended period of time; however, it would have been obvious to one of ordinary skill in the art to have stored a portion of the charcoal because Pilipski teaches that he only uses a sample of the charcoal for determining the gross heat of combustion for the charcoal.

8. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pilipski as applied to claim 1 above, and further in view of Hogan, II (US 4,101,292).

Pilipski teaches that the charcoal may be stored for transport, but fails to teach how the charcoal is stored. However, Hogan teaches this difference.

Hogan teaches that the charcoal briquettes are stored in impermeable plastic bags which are filled with inert gas, such as carbon dioxide (see abstract; col. 3, lines 17-24).

It would have been obvious to one of ordinary skill in the art to have stored the charcoal under an inert gas condition because the inert gas would replace the oxidizing oxygen gas.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 703-308-2509. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 703-306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9310 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


Cephia D. Toomer
Primary Examiner
Art Unit 1714

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September 25, 2002